IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2115 OF 2004

AND

NOTICE OF MOTION NO.3543 OF 2003

IN

SUMMARY SUIT NO.2438 OF 2001

Navratna Metal Corporation ... Plaintiffs

v/s

Swami Samarth Engineers and anr. ... Defendants

And

Mangala wd/o Shashi Yadav and anr.... Applicants

Mr Sohanraj Chopda for Plaintiffs.

Mr S.L. Kapse for Defendant No.3.

CORAM : D.K.DESHMUKH J.

DATE : 5TH MAY 2005

P.C.: -

1. Notice of motion No.2115 of 2004 is taken out by the original defendant No.3 and notice of motion No.3543 of 2003 is taken out by the legal representatives of the deceased defendant No.2. Admittedly, writ of summons was served on defendant Nos.2 and 3. The explanation given by the defendant No.2 is that she did not appear in Court because the defendant No.3 told her that she need not appear, he will take care of the proceedings. The explanation of legal representatives of deceased defendant No.3 is that they do not know why defendant No.3 did not appear in Court. The decree is passed on 26th February 2002. There is enormous delay in taking out this motion. The execution has made considerable progress. In this situation therefore, in my opinion, it will not be appropriate to entertain these notices of motion. Both the notices of motion are disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Personal Secretary as true copy.

. Certified copy expedited.